

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM G. SUTHERLAND,

Plaintiff,

v.

PAT WARREN, et al.,

Defendants.

Case No. 2:18-cv-13568

HONORABLE STEPHEN J. MURPHY, III

**ORDER ADOPTING REPORT AND RECOMMENDATION [115], AND
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT [105]**

Plaintiff William Sutherland is a pro se prisoner who has alleged various constitutional violations by Michigan Department of Corrections employees. ECF 15. The Court referred the matter to Magistrate Judge Elizabeth A. Stafford, ECF 60, and the parties have since filed several motions. At issue is Defendants' most recent motion for summary judgment. ECF 105. The magistrate judge issued a Report and Recommendation ("Report") that suggested the Court grant Defendants' summary judgment motion. ECF 115. Federal Rule of Civil Procedure 72(b) governs review of a magistrate judge's report and recommendation. De novo review of the magistrate judge's findings is required only if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2).

Here, the magistrate judge's report and recommendation was filed on February 16, 2022. ECF 105. Parties must file objections within fourteen days of when a report and recommendation is filed. *See* Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1)(C).

The magistrate judge's report and recommendation contained the notice that objections must be filed within fourteen days as required by statute. ECF 105, PgID 1453; 28 U.S.C. § 636(b)(1)(C). Defendants did not file any objections. Plaintiff did file objections, but the filing was untimely. ECF 116; *see* ECF 115; Fed. R. Civ. P. 6(a)(1); Fed. R. Civ. P. 72(b)(2); *see also* 28 U.S.C. § 636(b)(1)(C). Because the objections were untimely, the Court will have the Clerk of the Court strike the objections from the docket and consider neither party to have filed objections.

Because neither party filed objections, de novo review of the Report's conclusions is not required. After reviewing the record, the Court finds that the magistrate judge's conclusions are factually based and legally sound. The Court will therefore adopt the Report's findings and grant Defendants' motion for summary judgment. Because granting the summary judgment motion dismisses the last Defendants from the case, this is a final order that closes the case.

The Court will also deny Plaintiff leave to appeal in forma pauperis because he cannot take an appeal in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a).

ORDER

WHEREFORE, it is hereby **ORDERED** that the Clerk of the Court must **STRIKE** Plaintiff's objections to the Report and Recommendation [116] as untimely.

IT IS FURTHER ORDERED that the magistrate judge's Report and Recommendation [115] is **ADOPTED**.

IT IS FURTHER ORDERED that Defendants' motion for summary judgment [105] is **GRANTED**.

IT IS FURTHER ORDERED that leave to appeal in forma pauperis is
DENIED.

This is a final order that closes the case.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: March 15, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 15, 2022, by electronic and/or ordinary mail.

s/David P. Parker
Case Manager